

Members

Sen. Beverly Gard, Chairperson
Sen. Kent Adams
Sen. Lindel Hume
Sen. Vi Simpson
Rep. James Bottorff
Rep. Ron Herrell
Rep. Steven Heim
Rep. David Wolkins
Lori Kaplan
Dwayne Burke
John Ulmer
Shelly Miller
Ellen Tobias
William Goffinet
Randal D. Edgemon
William Hayden



ENVIRONMENTAL QUALITY SERVICE COUNCIL

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Authority: P.L. 240-2003 (SEA 121)

MEETING MINUTES¹

Meeting Date: July 15, 2003
Meeting Time: 9:30 A.M.
Meeting Place: Government Center South, 302
W. Washington St., Conference
Room C
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. Beverly Gard, Chairperson; Sen. Kent Adams; Sen. Lindel Hume; Sen. Vi Simpson; Rep. James Bottorff; Rep. Steven Heim; Rep. David Wolkins; Lori Kaplan; Dwayne Burke; John Ulmer; Shelly Miller; Ellen Tobias; William Goffinet; Randal Edgemon; William Hayden.

Members Absent: Rep. Ron Herrell.

I. Call to order and introduction of members

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Senator Gard called the meeting to order at 9:38 A.M. The members introduced themselves.

II. Discussion and overview of EQSC agenda for the interim

Sen. Gard discussed the new EQSC website www.eqsc.org, sponsored by the Environmental Rulemaking Subcommittee of the Indiana State Bar Association, which includes information concerning the EQSC's consideration of the environmental rulemaking process. She then discussed the information in the council packets (Handout #1) including requirements imposed on the EQSC by the Legislative Council, statutory authority for the EQSC, and statutory study topics.

III. Commissioner's report and discussion

Lori Kaplan, Commissioner of the Indiana Department of Environmental Management (IDEM), presented the IDEM Commissioner's Report (Handout #2), which includes the following information:

1. Outreach, education, and assistance from October 1, 2002, through June 30, 2003
2. Rulemaking updates for the environmental rulemaking boards
3. Fees collected
4. Permit report cards
5. Major permit charts
6. Selected news releases from October 22, 2002, through June 30, 2003
7. Summary of environmental legislation from the 2003 session
8. Status of administratively extended NPDES permits
9. Frequently asked questions about the Indiana public water system fee program
10. Agricultural open burning
11. Emission reporting rule update
12. New source review reform
13. Changes to the environmental rulemaking process and procedures

Commissioner Kaplan discussed IDEM's recommendation to the Environmental Protection Agency (EPA) concerning air quality attainment and gave further updates on rulemaking on confined feeding, Allen County residential discharging septic systems, and storm water. She discussed the IDEM website, and noted that the IDEM southwest regional office has moved to Petersburg.

In response to questions from the council, Commissioner Kaplan discussed the status of administratively extended permits, IDEM's response to rulemaking changes directed by the General Assembly in the 2003 session and to vetoed legislation, the status of the Wetlands Task Force, standards for the inclusion of counties in Metropolitan Statistical Areas for air quality attainment purposes, and IDEM staffing for issuing permits.

IV. Environmental rulemaking presentations and discussion by the Environmental Law Section of the Indiana State Bar Association, and comments from IDEM

The Environmental Law section of the Indiana State Bar Association presented on Indiana environmental rulemaking as outlined in Handout #3. Marsha Oddi, Environmental Information Solutions, gave a rulemaking overview. Guinn Doyle, Barnes & Thornburg, discussed the history and membership of the Environmental Law Section. Betsy DuSold, Eli Lilly and Company, discussed recommendations for changes in the environmental

rulemaking process. Brad Sugarman, Sommer Barnard & Ackerson, discussed the changes in the environmental rulemaking process required by P.L. 240-2003 (HEA 1671).

The presenters responded to questions from the council concerning communications among the parties involved with respect to rulemaking changes, the steps required before a rule takes effect, the total time required for rulemaking, the schedule of publication of rulemaking notices in the Indiana Register, the level of independence of the environmental rulemaking boards from IDEM, educational opportunities for board members, operational costs of the boards, conflicting rule interpretations by the EPA, and review of proposed rules for legality.

Sen. Gard noted that she has asked the National Council of State Legislatures to compile information on other states' rulemaking procedures.

Tim Method, Deputy Commissioner, IDEM, discussed the volume of environmental rulemaking in recent years, the various ways rulemaking is initiated, the involvement of various IDEM personnel in the rulemaking process, and the involvement of workgroups in the process. He noted the changes in the process recently made by IDEM, as set forth in Commissioner Kaplan's letter to interested persons of January 29, 2003 (See Handout #2). Nancy King, IDEM, discussed IDEM's implementation of the changes required under P.L. 240-2003 (HEA 1671) regarding the adoption of rules and non-rule policy documents.

Mr. Method and Ms. King responded to questions from the council concerning the effect of endangered industry restrictions on rulemaking, and the timeline for finalizing the new source review rules.

V. Council discussion

Sen. Gard presented a list of topics for discussion this interim, which include:

1. Rulemaking
2. Air issues (Eight hour standard, new source review, hazardous air pollutants, Title 5 permits)
3. Examine solid waste management districts audit
4. IDEM budget issues
5. Environmental crimes issues
6. HR 59 (2003) concerning drainage products used in the construction of culverts and storm sewers
7. Environmental permit issues
8. Brownfields
9. Update on LaGrange sewer district
10. State revolving loan funds

Sen. Gard will appoint a workgroup at the next meeting to formulate recommendations concerning environmental rulemaking.

VI. Other business

Glenn Pratt asked the council to examine issues concerning agricultural nonpoint sources of water pollution, and to consider recommending elimination of the environmental rulemaking boards.

The Chair scheduled the next EQSC meeting for 1:00 p.m. August 12, 2003.

VII. Adjournment

Sen. Gard adjourned the meeting at 11:52 a.m.